



Legislative update

By Rick Garza, Deputy Administrative Director

Legislators passed a variety of liquor-related measures in the 2006 session. Two major pieces of legislation changed the way the state regulates the sale of wine and beer. Another adjusted the formula cap on statewide spirits, beer and wine restaurant licenses and streamlined the agency liquor licensing process. Bills of interest are listed below.

Agency Request Legislation

SB 6539: This bill allows a slight increase in the number of on-premise liquor licenses statewide. The Liquor Control Board has convened a work group to review criteria used to determine the appropriate number of statewide licenses and will recommend how to improve the process of allocating licenses to meet population growth.

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ESB 6537: This bill modifies requirements for the direct sale of wine to Washington state consumers. The measure requires that both in-state and out-of-state wineries are treated the same.

HB 2562: The bill added language regulating flavored malt beverages as beer products.

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Liquor Board Chairman to step down in September



Merritt D. Long has served as Washington State Liquor Control Board Chairman since 2001.

Merritt D. Long, Chairman of the Washington State Liquor Control Board, announced he will be retiring from his post September 8, 2006, to spend more time with his family and pursue civic and business interests in Olympia.

Governor Gary Locke first appointed Long as Board Chairman in 2001. Governor Christine Gregoire reappointed him and the Senate confirmed his appointment in 2005.

Under Long's leadership, the Board adopted a resolution reducing its time and pay to 60 percent, hired an administrative director to handle daily operations and began to focus more on policy and strategic planning. When asked to highlight his

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Task Force studying three-tier system

This session, the Washington State Legislature passed Second Substitute Senate Bill 6823, requesting that the Liquor Board convene a task force to conduct a comprehensive review of the current three-tier regulatory system controlling the sale and distribution of beer and wine in Washington state.

The Three-Tier Task Force has met three times beginning in May 2006 and faces a complex challenge in a short time frame. The Task Force will complete a final report by December 2006.

Task Force work accomplished includes developing a basic set of definitions and a task force charter, review the state's current policy goals related to alcohol control and identifying areas of potential

change. Ongoing policy discussions about the state's three-tiers regulatory system will continue in upcoming meetings.

The task force is comprised of members of the Legislature, local government, producers, distributors, retailers, the prevention community, and a citizen representative.

Three-Tier Task Force information is available on the Liquor Control Board Web site at www.liq.wa.gov. Select the Three-Tier Review button on the upper right of the home page. For information call (360) 664-1600.

Compliance rates rise with more frequent checks

The WSLCB Enforcement and Education Division has increased the number of alcohol and tobacco compliance checks being conducted annually. Correspondingly, compliance rates have risen.

When enforcement officers visit a licensed premise serving liquor, they check for:

- Proper signage and procedures.
- To make sure the facility is in conformity with operating plans submitted to the department.
- For employees over-serving customers.

- Whether there is a possible problem serving minors at the premises.
- For disorderly conduct.
- Other possible violations while visiting.

Tobacco enforcement officers also conduct compliance checks to prevent the sale of tobacco to persons under age 18. They work closely with federal and local authorities to investigate the illegal shipment of untaxed cigarettes into the state of Washington, and they conduct tax investigations relative to other tobacco products (OTP).

**Statewide Liquor Compliance Rates
2001 to 2005**

Year	Checks Conducted	Sales	Compliance Rate
2005	6,804	1,060	84.4%
2004	6,492	1,086	83.0%
2003	5,140	977	81.0%
2002	2,980	579	81.0%
2001	1,716	424	75.0%

**Statewide Tobacco Compliance Rates
2001 to 2005**

Year	Checks Conducted	Sales	Compliance Rate
2005	2938	252	91.0%
2004	2963	299	90.0%
2003	3775	477	88.0%
2002	2,508	231	91.0%
2001	2,151	236	89.0%

New direct shipment laws for wine and beer

The 2006 Legislature passed two new laws involving both out-of-state and in-state wineries shipping directly to Washington consumers, and Washington retailers receiving beer and wine from out-of-state and Washington breweries and wineries. These new laws were implemented July 1, 2006.

Engrossed Senate Bill 6537 allows out-of-state wineries to ship directly to Washington consumers, and sets some new rules for Washington wineries. Washington is now a permit state and no longer a reciprocity state. This means that any U.S. winery licensed as a winery in their home state and licensed with the Federal government under the Tobacco and Trade Bureau (TTB) can obtain a wine shipper permit to ship direct to Washington consumers.

The second bill, Second Substitute Senate Bill 6823 allows self-distribution by U.S. wineries/breweries of wine/beer of their own production



Two new bills change direct shipping laws for wine and beer.

to Washington licensed retailers. For out-of-state U.S. wineries/breweries, Certificate of Approval (COA) holders may sell beer and wine of their own production to Washington retailers. Washington wineries/breweries will continue to price post as a distributor if they choose to sell product of their own production directly to Washington retailers and must make slight changes in their monthly report to the Board. Detailed information is available at:

www.liq.wa.gov/publications/DirectShippingLaws.asp.

Liquor Board preparing to adopt new rules

The WSLCB will prepare new rules this fall as a result of five bills that passed in the 2006 Legislative session. The rule making process began in April 2006 when the Liquor Board approved filing the pre-proposal "statement of inquiry" (CR 101) form to begin the rule change process.

Rules under review by the Liquor Control Board are as follows:

- The relationship between liquor manufacturers, distributors or importers and nonprofit organizations holding a liquor license.
- The self-distribution of beer and wine by breweries and wineries to licensed liquor retailers.
- The processing of liquor licenses.
- The direct shipment of wine from wineries to consumers.
- Rules allowing breweries holding a spirits, beer, and wine restaurant license to sell kegs and small containers of its own production "to go."

Information about proposed rules is available on the Liquor Control Board Web site at http://www.liq.wa.gov/rules/review_rules.asp. General information about laws and rules is available at <http://www.liq.wa.gov/laws.asp>.

State agencies alter or add new rules in response to laws passed by the Legislature, or to address changes in agency processes. Rules are called the "Washington Administrative Code" (WAC). State laws are called the "Revised Code of Washington" (RCW).

How to comply with retail liquor advertising laws

If you are a retail licensee, navigating the state's advertising regulations can be a bit tricky. To stay within state advertising guidelines, we recommend you study WAC 314-52 in your liquor law handbook.

Price Advertising: Retail licensees may advertise the sale and service of liquor. They may advertise drink prices, reduced price drinks and special pricing, as long as it does not put the price below cost of acquisition. They may advertise brand names (provided they are paying entirely for the ad (WAC 314-52-090)).

Happy Hour: Retailers may advertise "Happy Hour" and happy hour information (such as prices, times, brands).

Advertising of "Happy Hour" cannot promote over-consumption by using such language as "Bottomless Margaritas"; "All you can drink", etc.

Retailers cannot require the customer to purchase more than one drink at a time, for on-premises consumption, in order to get a reduced price (WAC 314-52-110(1)). This would include such advertising as "Two for the price of one"; "Buy one, get one free", etc. This type of advertising is considered to promote over-consumption.

No "Free" or "Complimentary" liquor: Advertising cannot refer to "free" or "complimentary," whether or not it is in combination with a meal or room. WAC 314-52-114 prohibits offering liquor at below cost of acquisition. Retailers cannot offer "free" or "complimentary" liquor as part of a promotion (WAC 314-11-085).

Retailers may offer package deals. For example, "Included with your meal/room is a beverage of your choice"; "Dinner includes a bottle of wine"; "Included with your room is a bottle of champagne." The cost of the meal must include the cost of the alcoholic product.

Retailers may offer package deals, for example: "Included with your meal/room is a beverage of your choice."

"Novelty" item vs. "Point-of-Sale" item:

Novelty items are items with a useful benefit to the retailer beyond brand advertising.

A retail licensee may purchase novelty items from a manufacturer, importer or wholesaler at not less than cost of the item (WAC 314-52-080). Retail licensees cannot accept purchase or barter with radio stations or other 3rd parties for liquor branded merchandise.

Examples of novelty items include: napkins, coasters, cups, glassware; clothing; pool table lights; and customized material.

Point-of-sale material and brand signs have no value to the retailer except as brand advertising (WAC 314-52-113).

Permanent and Disposable Point-of-Sale (POS) Items: POS items, such as neon signs, branded mirrors and display bins, may be displayed at no charge to the retailer. Point-of-sale must remain the property and responsibility of the liquor supplier.

Retail licensees may receive disposable POS, such as matches, brochures, and posters, from

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liquor manufacturers, importers and distributors, and may provide these items to their customers. Banners and other print material such as table tents may be provided as POS, provided they are not customized to the retail premises. Such material may include product name, product price, product size and product information, only, in reference to the licensed premises.

If a banner (or other print material) is imprinted with information customized to the premises it must be purchased by the retailer. For example, if the retailer adds prices of food, or advertises an event on a product banner, they must purchase the banner.

Examples: An outdoor banner imprinted with "Sonics Headquarters - MGD \$1.50" - must be purchased by the retailer. "Official Sports Bar - Cold Bud Light" - must be purchased. "MGD Regular Price \$2.00, Now \$1.50" - no purchase required. "Go Sonics - Bud Light \$1.50" - no purchase required.

Costumed mascots are limited in their activities to socializing with customers (WAC 314-52-113(4)). Costumed mascots, including "girls" as well as other employees of the liquor manufacturer or distributor, cannot hand out point-of-sale materials to customers.

Promotions on Retail Licensed Premises

Retail licensees are responsible for all activities at their location, whether or not a third party is involved with hosting an event on the premises. Retail licensees cannot permit third parties to give away liquor branded merchandise on the retail licensed premises, for example, T-shirts.

Retail licensees cannot permit third parties to place liquor branded devices on the retail licensed premises, for example, a liquor branded racing simulator.

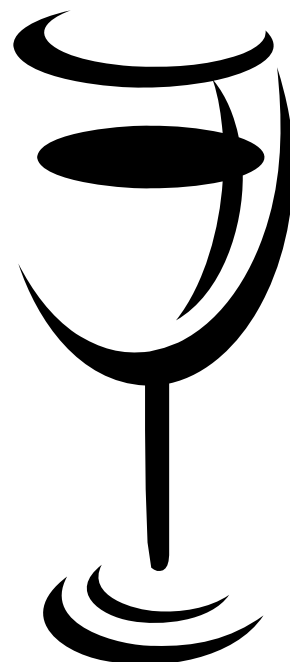
Retail licensees cannot permit third parties to

bring entertainment to their premises, if the third party has an arrangement with a liquor manufacturer, importer or distributor. This would include the third party staff wearing branded clothing, using branded items, including playing cards, etc. Retail licensees cannot advertise events in conjunction with a liquor manufacturer, importer or distributor, or imply a partnership with a liquor manufacturer, importer or distributor. For example, "Brought to you by Bud Light," or "Brought to you by Miller and Joe's Grill."

Retail licensees *cannot* name their events after liquor brands.

RCW 66.28.010 ("Tied-house" statute) and WAC 314-52-090 ("joint advertising rule") prohibit liquor manufacturers, importers and distributors from including the name of a retail licensee in their advertising.

For questions, contact the Board's Advertising Coordinator, Sherry Frederick, at (360) 664-1725, or scf@liq.wa.gov.



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SSB 6540: This measure made several efficiency changes to WSLCB liquor licensing processes.

2SSB 6823: This bill allows self-distribution by U.S. wineries/breweries of wine/beer of their own production to Washington licensed retailers (see direct shipping article, page 3).

Other liquor-related legislation

ESB 6661: This bill establishes a Washington Beer Commission. The Washington State Department of Agriculture (WSDA) has oversight to speak on behalf of state government regarding the marketing and promotion of Washington-produced beer, and WSDA must approve the commission's proposed budget and its advertising, promotional, educational and marketing programs. Added language added from Substitute Senate Bill 6838 (a measure that "died in the Senate") allows a non-profit statewide organization of microbreweries (i.e., the Washington Brewers Guild) to obtain a special occasion liquor license to conduct up to six beer festivals until July 1, 2007.

SHB 3128: Substitute House Bill 3128 creates two exemptions to the "tied-house" law. First, a non-profit group that constructs and operates a facility to promote Washington-produced wines may hold a retail license on the facility property, or lease all or any portion of the facility property to a retail licensee, even when the members of the board of directors or officers for the non-profit include officers, directors, owners, or employees of a licensed domestic winery. Financing for facility construction must include both public and private funds. The second exemption allows an IRS certified bona fide charitable non-profit society or association that has on its board of directors an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval (COA) holder to hold a special occasion license to serve alcohol at a particular event.

SHB 3150: Domestic wineries and retail licensees may now jointly produce brochures and material promoting tourism and containing information about domestic wineries, retailers and their products. They may also identify wineries on privately labeled wines sold by spirits, beer, and wine restaurants, and private clubs.

HB 2897: This bill allows a restaurant with a caterer's endorsement to cater events on vessels that hold a liquor license.

HB 3154: A domestic brewery or microbrewery holding a spirits, beer, and wine restaurant license may now sell beer of its own production "to go" in kegs or small containers filled from the tap in the restaurant. Beer of its "own production" refers to beer made on the premises.

SSB 6791: This bill modifies the beer and wine restaurant license to allow licensees who contract with the State Ferry system to hold a license covering any vessel on a designated route.

ESB 5048: This bill, which took effect June 7, 2006, prohibits the practice of providing samples of cigarettes as a promotional activity.

Legislation that did not pass

2SHB 1430: The bill would have allowed spirits, beer, and wine restaurant licensees to sell kegs "to go" from a restaurant.

SSB 6838: If this bill had passed, a statewide non-profit trade association formed to promote Washington's craft brewing industry would have been allowed to conduct up to six beer festivals under a special occasion license through June 30, 2007.

SB 6842: This bill would have allowed for an arrangement for brand advertising or event promotion between a sports entertainment facility licensee and a manufacturer, importer, or distributor. Currently, no manufacturer, importer, distributor or authorized representative may have

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Would you like to receive the
Speakeasy by e-mail?

Please send an e-mail with
your name, your liquor license
number, and business trade
name to Susan Reams, Public
Information Officer WSLCB,
reams@liq.wa.gov.

Feel free to send multiple
e-mails to us if you have
corporation members or
employees who would like to
receive news.

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any direct or indirect financial interest in any retail
business with a liquor license.

SB 6199: The measure would have set a fee for
liquor licensees at small baseball sports entertain-
ment facilities to \$350 per year rather than \$2,500
per year.

SSB 6703: This bill would have allowed a spa or an
art gallery to offer one glass of wine to customers
21 years of age or older.

Chairman

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major accomplishments at the agency, Long cited
changing the Board's focus from operations to
policy development, forming a Business Advisory
Council to heighten stakeholder accessibility to the
Board, and securing legislative funding in 2005 for
a new Alcohol Awareness initiative.

Chairman Long served as CEO of the Washington
State Lottery from 1997 to 2001. During his 37
years of state service, he also served as Director of
the Washington State Human Rights Commission
and the State Board for Vocational Education.

Long is a board member for the Heart of Wash-
ington. Long also served as a member of the
Olympia Civil Service Commission, a board mem-
ber for the Seattle Center for Career Alternatives,
and a trustee of The Evergreen State College. Mr.
Long is one of the 17 organizing directors of the
new Thurston First Bank in Olympia. He serves
on the bank's Executive Committee and is chair
for the Personnel and Compensation Committee.
Chairman Long will be greatly missed by all who
worked with him and for him.

Long and his wife, Marsha Tadano Long are co-
founders of The Learning Seed Foundation. The
Learning Seed was established in 2001 to provide
scholarships to high school seniors who have
demonstrated their commitment to education, who
have contributed to their community and who may
have overcome a significant obstacle in their lives.
To date, the Learning Seed Foundation has award-
ed \$45,000 in scholarships for students to attend
post secondary education. The Foundation has an
endowment of about \$225,000.

***For the latest information, visit
the Liquor Control Board
Web site at
www.liq.wa.gov.***

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**"The mission of the
Liquor Control Board is to serve the
public by preventing the misuse of
alcohol and tobacco, and promote
public safety through controlled
retail and wholesale distribution, li-
censing, regulation, enforcement and
education."**

New information on-line at www.liq.wa.gov

The Liquor Board Web site is a great place to go to get the information you need. Simply visit www.liq.wa.gov to see the latest agency news.

New information includes:

Direct Shipping law changes: Learn about how legislative bills changed direct shipping law.

Three-Tier Review: Information about the Three-Tier review task force is updated each week.

Beer and Wine Tax Reporting: Due to direct-shipping law changes, new information and report forms are posted for your use.

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